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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/641,801	08/17/2000	G. John Stanton	265.0023 0101	5388

7590 12/15/2003
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P O Box 581415
Minneapolis, MN 55458-1415

EXAMINER

NICHOLS, CHRISTOPHER J

ART UNIT	PAPER NUMBER
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1647

DATE MAILED: 12/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SM.

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Office Action Summary

Application No.

09/641,801

Applicant(s)

STANTON ET AL.

Examiner

Christopher Nichols, Ph.D.

Art Unit

1647

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-9, 11, 13-35 and 37-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 6-9, 11, 13-26, 30-33 and 37-39 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 27-29, 34 and 35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 August 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☒ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Status of Application, Amendments, and/or Claims

1. The Response and Amendment filed 3 November 2003 has been received and entered in full. Claims **1, 6, 11, 20, 27, 29, 34, 35, 37, 38, and 39** have been amended.
2. Claims **37-39**, directed to the process of making or using a product, previously withdrawn from consideration as a result of a restriction requirement, are now subject to being rejoined. It is noted by the Examiner that all the previously made objections and rejections, with the exception of the double patenting rejection, have been withdrawn. Therefore in the interest of expedited prosecution, to simply issues for purpose of appeal, and as a courtesy to the Applicant, claims **37-39** and SEQ ID NO: 2-34 are hereby rejoined and fully examined for patentability under 37 CFR 1.104 (see MPEP §707 and §800).
3. Since all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, the restriction requirement made in the Office Action mailed 17 June 2002 is hereby withdrawn.
4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Withdrawn Objections And/Or Rejections

5. All rejections and objections are hereby *withdrawn* in view of Applicant's amendments (3 November 2003).

Ex parte Quayle

6. This application is in condition for allowance except for the following formal matters:
7. Claims **27, 28, 29, 34, and 35** are objected to because of the following informalities: said claims do not have a transitional phrase (such as “comprising”, “having”, “consisting of”). In the interest of Examination and in view of concurrent amendment of the claims, the Examiner has read said claims to read “selected from the group consisting of”. Appropriate correction is required.
8. Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
9. A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Christopher James Nichols, Ph.D.** whose telephone number is 703-305-3955. The examiner can normally be reached on Monday through Friday, 8:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Gary Kunz, Ph.D.** can be reached on 703-308-4623. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9307 for After Final communications. The fax phone numbers for the customer service center is 703-872-9305.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

CJN
December 8, 2003


GARY KUNZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600